

ASSEMBLY BILL

No. 858

Introduced by Assembly Member Goldberg

February 20, 2003

An act to add Article 3.5 (commencing with Section 221.2) to Chapter 2 of Part 1 of the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 858, as introduced, Goldberg. Jerry Ballesteros Act: athletic team names and mascots.

(1) Existing provisions of the Education Code relate to the prohibition of discrimination in the provision of educational services by elementary and secondary schools.

This bill would establish the Jerry Ballesteros Act, which would prohibit public schools from using certain specified terms as a school or athletic team name, mascot, or nickname. The bill would provide that the act does not apply to a school or campus if certain conditions regarding prior expenditures on uniforms and other materials are met, as specified. The bill would, in addition, provide that the act does not apply to certain schools located within "Indian country," as defined, provided certain conditions are met. The bill would also provide that this prohibition may not be waived by the State Board of Education. To the extent that this prohibition would impose additional duties on schools, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide

and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known as the Jerry Ballesteros
2 Act, in honor of Jerry Ballesteros, a Native American who
3 dedicated his life to eliminating racially derogatory mascots. After
4 experiencing the isolation, harassment, and constant trivialization
5 of his culture, Jerry Ballesteros advocated to eliminate the use of
6 an “Indian” mascot by his school district, expressing the pain that
7 many Native American pupils experience from the use of
8 derogatory mascots.

9 SEC. 2. Article 3.5 (commencing with Section 221.2) is
10 added to Chapter 2 of Part 1 of the Education Code, to read:

11
12 Article 3.5. The Jerry Ballesteros Act
13

14 221.2. The Legislature finds and declares all of the following:

15 (a) The use of racially derogatory or discriminatory school or
16 athletic team names, mascots, or nicknames in California public
17 schools is antithetical to the California school mission of providing
18 an equal education to all.

19 (b) Certain athletic team names, mascots, and nicknames that
20 have been and remain in use by other teams, including school
21 teams, in other parts of the nation are discriminatory in singling out
22 the Native American/American Indian community for the derision
23 to which mascots or nicknames are often subjected.

24 (c) Many individuals and organizations interested and
25 experienced in human relations, including the United States
26 Commission on Civil Rights, have concluded that the use of Native
27 American images and names in school sports is a barrier to equality
28 and understanding, and that all residents of the United States
29 would benefit from the discontinuance of their use.



(d) No individual or school has a cognizable interest in retaining a racially derogatory or discriminatory school or athletic team name, mascot, or nickname.

221.3. (a) All public schools are prohibited from using any of the following school or athletic team names, mascots, or nicknames:

(1) Redskins.

(2) Indians.

(3) Braves.

(4) Chiefs.

(5) Apaches.

(6) Comanches.

(7) Papooses.

(8) Warriors, if accompanied by Native American imagery, including, but not limited to, a mascot.

(9) Sentinels, if accompanied by Native American imagery, including, but not limited to, a mascot.

(10) Any other Native American tribal name.

(b) This section does not apply to the following:

(1) A school located within “Indian country,” as defined in Section 1151 of Title 18 of the United States Code.

(2) A school with enrollment boundaries that include a portion of “Indian Country,” as defined in Section 1151 of Title 18 of the United States Code, provided that the tribe having regulatory jurisdiction over the territory within that boundary has authorized the use of the school or athletic team name, mascot, or nickname through an appropriate enactment or resolution.

(c) Notwithstanding this section, a school may continue to use uniforms or other materials bearing a school or athletic team name, mascot, or nickname specified in subdivision (a) that were purchased before January 1, 2004, if the school does all of the following:

(1) Selects a new school or athletic team name, mascot, or nickname.

(2) Refrains from purchasing or acquiring, for the purpose of distribution or sale to pupils or school employees, any uniform that includes or bears the prohibited school or athletic team name, mascot, or nickname.

(3) Refrains from purchasing or acquiring, for the purpose of distribution or sale to pupils or school employees, any yearbook,

1 newspaper, program, or other similar material that includes or
2 bears the prohibited school or athletic team name, mascot, or
3 nickname in its logo or cover title.

4 (4) Refrains from purchasing or constructing a marquee, sign,
5 or other new or replacement fixture that includes or bears the
6 prohibited school or athletic team name, mascot, or nickname.

7 (d) This section is not subject to waiver by the State Board of
8 Education pursuant to Section 33050, except as specified in this
9 section.

10 SEC. 3. Notwithstanding Section 17610 of the Government
11 Code, if the Commission on State Mandates determines that this
12 act contains costs mandated by the state, reimbursement to local
13 agencies and school districts for those costs shall be made pursuant
14 to Part 7 (commencing with Section 17500) of Division 4 of Title
15 2 of the Government Code. If the statewide cost of the claim for
16 reimbursement does not exceed one million dollars (\$1,000,000),
17 reimbursement shall be made from the State Mandates Claims
18 Fund.

